

AMENDED IN ASSEMBLY APRIL 14, 2005
AMENDED IN ASSEMBLY MARCH 29, 2005
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1320

Introduced by Assembly Member Canciamilla

February 22, 2005

An act to amend Section 48204 of the Education Code, ~~and to amend Section 6552 of the Family Code~~, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, as amended, Canciamilla. Residency requirements: exceptions.

Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements, including; ~~but not limited to, the pupil is placed within the boundaries of the school district in a regularly established licensed children's home, the pupil is residing in a state hospital located within the boundaries of the school district, that the pupil resides in the home of a caregiving adult that is located within the boundaries of the school district, or an interdistrict transfer has been approved for the pupil.~~ Existing law provides that execution of an affidavit is a sufficient basis for a determination that the pupil lives in the home of the caregiver, except as provided.

~~The bill would require a caregiving adult, with whom a pupil resides under existing law, to pay certain costs relating to the pupil, and would require a school district to direct any communication required to be given to the parent or legal guardian of the pupil to the~~

~~caregiving adult of the pupil if the parent or legal guardian of a pupil is unavailable or unwilling to accept responsibility for the pupil. The bill would also amend the language of the Caregiver's Authorization Affidavit to reflect these changes authorize the governing board of a school district to adopt a policy regarding the approval of an affidavit by a caregiver, as specified.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48204 of the Education Code, as added
2 by Section 2 of Chapter 529 of the Statutes of 2003, is amended
3 to read:

4 48204. (a) Notwithstanding Section 48200, and subject to
5 subdivision (c) a pupil is deemed to have complied with the
6 residency requirements for school attendance in a school district,
7 if he or she is any of the following:

8 (1) A pupil placed within the boundaries of that school district
9 in a regularly established licensed children's institution, or a
10 licensed foster home, or a family home pursuant to a
11 commitment or placement under Chapter 2 (commencing with
12 Section 200) of Part 1 of Division 2 of the Welfare and
13 Institutions Code.

14 An agency placing a pupil in a home or institution described in
15 this subdivision shall provide evidence to the school that the
16 placement or commitment is pursuant to law.

17 (2) A pupil for whom interdistrict attendance has been
18 approved pursuant to Chapter 5 (commencing with Section
19 46600) of Part 26.

20 (3) A pupil whose residence is located within the boundaries
21 of that school district and whose parent or legal guardian is

1 relieved of responsibility, control, and authority through
2 emancipation.

3 (4) A pupil who lives in the home of a caregiving adult that is
4 located within the boundaries of that school district. Execution of
5 an affidavit under penalty of perjury pursuant to Part 1.5
6 (commencing with Section 6550) of Division 11 of the Family
7 Code by the caregiving adult is a sufficient basis for a
8 determination that the pupil lives in the caregiver's home, unless
9 the school district determines from actual facts that the pupil is
10 not living in the caregiver's home.

11 (5) A pupil residing in a state hospital located within the
12 boundaries of that school district.

13 (b) A school district may deem a pupil as having complied
14 with the residency requirements for school attendance in the
15 school district if one or both the parents or legal guardians of the
16 pupil is employed within the boundaries of that school district.

17 (1) This subdivision does not require the school district within
18 which the parents or guardians of a pupil are employed to admit
19 the pupil to its schools. Districts may not, however, refuse to
20 admit pupils under this subdivision on the basis, except as
21 expressly provided in this subdivision, of race, ethnicity, sex,
22 parental income, scholastic achievement, or any other arbitrary
23 consideration.

24 (2) The school district in which the residency of either the
25 parents or guardians of the pupil is established, or the school
26 district to which the pupil is to be transferred under this
27 subdivision, may prohibit the transfer of the pupil under this
28 subdivision if the governing board of the district determines that
29 the transfer would negatively impact the court-ordered or
30 voluntary desegregation plan of the district.

31 (3) The school district to which the pupil is to be transferred
32 under this subdivision may prohibit the transfer of the pupil if the
33 district determines that the additional cost of educating the pupil
34 would exceed the amount of additional state aid received as a
35 result of the transfer.

36 (4) The governing board of a school district that prohibits the
37 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
38 encouraged to identify, and communicate in writing to the
39 parents or guardians of the pupil, the specific reasons for that
40 determination and is encouraged to ensure that the determination,

1 and the specific reasons therefor, are accurately recorded in the
2 minutes of the board meeting in which the determination was
3 made.

4 (5) The average daily attendance for pupils admitted pursuant
5 to this subdivision is calculated pursuant to Section 46607.

6 (6) Unless approved by the sending district, this subdivision
7 does not authorize a net transfer of pupils out of any given
8 district, calculated as the difference between the number of
9 pupils exiting the district and the number of pupils entering the
10 district, in any fiscal year in excess of the following amounts:

11 (A) For any district with an average daily attendance for that
12 fiscal year of less than 501, 5 percent of the average daily
13 attendance of the district.

14 (B) For any district with an average daily attendance for that
15 fiscal year of 501 or more, but less than 2,501, 3 percent of the
16 average daily attendance of the district or 25 pupils, whichever
17 amount is greater.

18 (C) For any district with an average daily attendance of 2,501
19 or more, 1 percent of the average daily attendance of the district
20 or 75 pupils, whichever amount is greater.

21 (7) Once a pupil is deemed to have complied with the
22 residency requirements for school attendance pursuant to this
23 subdivision and is enrolled in a school in a school district whose
24 boundaries include the location where one or both parents of a
25 pupil is employed, or where the legal guardian of the pupil is
26 employed, the pupil does not have to reapply in the next school
27 year to attend a school within that school district and the district
28 governing board shall allow the pupil to attend school through
29 the 12th grade in that district if the parent or guardian so chooses
30 and if one or both of the pupil's parents or guardians continues to
31 be employed by an employer situated within the attendance
32 boundaries of the school district, subject to paragraphs (1) to (6),
33 inclusive.

34 ~~(e) (1) The caregiving adult of a pupil described in paragraph~~
35 ~~(4) of subdivision (a) shall pay all school-related costs of the~~
36 ~~pupil, including, but not limited to, transportation costs, costs~~
37 ~~relating to lost instructional materials, library fines, costs for~~
38 ~~pupil identification cards, and other school fees.~~

39 ~~(2) If the parent or legal guardian of a pupil described in~~
40 ~~paragraph (4) of subdivision (a) is unavailable or unwilling to~~

1 ~~accept responsibility for the pupil, the school district shall direct~~
2 ~~any communication required to be given to the parent or legal~~
3 ~~guardian of the pupil to the caregiving adult of the pupil.~~

4 *(c) Notwithstanding any other provision of law, the governing*
5 *board of a school district may adopt a policy regarding the*
6 *approval of an affidavit executed pursuant to paragraph (4) of*
7 *subdivision (a). That policy may include a requirement that the*
8 *caregiver appear before the governing board as a condition of*
9 *approval of the affidavit.*

10 (d) This section is inoperative on and after July 1, 2007, and as
11 of January 1, 2008, is repealed, unless a later enacted statute, that
12 becomes operative on or before January 1, 2008, deletes or
13 extends the dates on which it becomes inoperative and is
14 repealed.

15 SEC. 2. Section 48204 of the Education Code, as amended by
16 Section 3 of Chapter 529 of the Statutes of 2003, is amended to
17 read:

18 48204. (a) Notwithstanding Section 48200, ~~and subject to~~
19 ~~subdivision (b)~~, a pupil is deemed to have complied with the
20 residency requirements for school attendance in a school district,
21 if he or she is:

22 (1) A pupil placed within the boundaries of that school district
23 in a regularly established licensed children's institution, or a
24 licensed foster home, or a family home pursuant to a
25 commitment or placement under Chapter 2 (commencing with
26 Section 200) of Part 1 of Division 2 of the Welfare and
27 Institutions Code.

28 An agency placing a pupil in the home or institution shall
29 provide evidence to the school that the placement or commitment
30 is pursuant to law.

31 (2) A pupil for whom interdistrict attendance has been
32 approved pursuant to Chapter 5 (commencing with Section
33 46600) of Part 26.

34 (3) A pupil whose residence is located within the boundaries
35 of that school district and whose parent or legal guardian is
36 relieved of responsibility, control, and authority through
37 emancipation.

38 (4) A pupil who lives in the home of a caregiving adult that is
39 located within the boundaries of that school district. Execution of
40 an affidavit under penalty of perjury pursuant to Part 1.5

1 (commencing with Section 6550) of Division 11 of the Family
2 Code by the caregiving adult is a sufficient basis for a
3 determination that the pupil lives in the caregiver's home, unless
4 the school district determines from actual facts that the pupil is
5 not living in the caregiver's home.

6 (5) A pupil residing in a state hospital located within the
7 boundaries of that school district.

8 ~~(b) (1) The caregiving adult of a pupil described in paragraph~~
9 ~~(4) of subdivision (a) shall pay all school-related costs of the~~
10 ~~pupil, including, but not limited to, transportation costs, costs~~
11 ~~relating to lost instructional materials, library fines, costs for~~
12 ~~pupil identification cards, and other school fees.~~

13 ~~(2) If the parent or legal guardian of a pupil described in~~
14 ~~paragraph (4) of subdivision (a) is unavailable or unwilling to~~
15 ~~accept responsibility for the pupil, the school district shall direct~~
16 ~~any communication required to be given to the parent or legal~~
17 ~~guardian of the pupil to the caregiving adult of the pupil.~~

18 *(b) Notwithstanding any other provision of law, the governing*
19 *board of a school district may adopt a policy regarding the*
20 *approval of an affidavit executed pursuant to paragraph (4) of*
21 *subdivision (a). That policy may include a requirement that the*
22 *caregiver appear before the governing board as a condition of*
23 *approval of the affidavit.*

24 (c) This section is operative on and after July 1, 2007.

25 ~~SEC. 3. Section 6552 of the Family Code is amended to read:~~
26 ~~6552. The caregiver's authorization affidavit shall be in~~
27 ~~substantially the following form:~~

Caregiver's Authorization Affidavit

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

-

Instructions: Completion of items 1–4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5–8 is additionally required to authorize any other medical care. Print clearly.

-

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: ____ 2. Minor's birth date: ____ 3. My name (adult giving authorization): ____ 4. My home address: ____

____.

5. ☐ I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").

6. Check one or both (for example, if one parent was advised and the other cannot be located):

☐ I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.

☐ I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

7. My date of birth: ____.

8. My California driver's license or identification card number: ____.

-
Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

1 —I declare under penalty of perjury under the laws of the State
2 of California that the foregoing is true and correct.

3 Dated: _____ Signed: _____

4
5 -

6 Notices:

7 -

8 1. ~~This declaration does not affect the rights of the minor's~~
9 ~~parents or legal guardian regarding the care, custody, and control~~
10 ~~of the minor, and does not mean that the caregiver has legal~~
11 ~~custody of the minor.~~

12 -

13 2. ~~A person who relies on this affidavit has no obligation to~~
14 ~~make any further inquiry or investigation.~~

15 -

16 Additional Information:

17 -

18 ~~TO CAREGIVERS:~~

19 -

20 1. ~~“Qualified relative,” for purposes of item 5, means a spouse;~~
21 ~~parent, stepparent, brother, sister, stepbrother, stepsister, half~~
22 ~~brother, half sister, uncle, aunt, niece, nephew, first cousin, or~~
23 ~~any person denoted by the prefix “grand” or “great,” or the~~
24 ~~spouse of any of the persons specified in this definition, even~~
25 ~~after the marriage has been terminated by death or dissolution.~~

26 -

27 2. ~~The law may require you, if you are not a relative or a~~
28 ~~currently licensed foster parent, to obtain a foster home license in~~
29 ~~order to care for a minor. If you have any questions, please~~
30 ~~contact your local department of social services.~~

31 -

32 3. ~~If the minor stops living with you, you are required to notify~~
33 ~~any school, health care provider, or health care service plan to~~
34 ~~which you have given this affidavit. The affidavit is invalid after~~
35 ~~the school, health care provider, or health care service plan~~
36 ~~receives notice that the minor no longer lives with you.~~

37 -

38 4. ~~If you do not have the information requested in item 8~~
39 ~~(California driver's license or I.D.), provide another form of~~

1 ~~identification such as your social security number or Medi-Cal~~
2 ~~number.~~

3 -

4 ~~5. The caregiver of a pupil is responsible for all school-related~~
5 ~~costs of the pupil, including, but not limited to, transportation~~
6 ~~costs, costs relating to lost instructional materials, library fines,~~
7 ~~costs for pupil identification cards, and other school fees. The~~
8 ~~caregiver may also receive communication from a school in the~~
9 ~~place of the parent or legal guardian of the pupil.~~

10 -

11 ~~TO SCHOOL OFFICIALS:~~

12 -

13 ~~1. Section 48204 of the Education Code provides that this~~
14 ~~affidavit constitutes a sufficient basis for a determination of~~
15 ~~residency of the minor, without the requirement of a~~
16 ~~guardianship or other custody order, unless the school district~~
17 ~~determines from actual facts that the minor is not living with the~~
18 ~~caregiver.~~

19 -

20 ~~2. The school district may require additional reasonable~~
21 ~~evidence that the caregiver lives at the address provided in item~~
22 ~~4.~~

23 -

24 ~~TO HEALTH CARE PROVIDERS AND HEALTH CARE~~
25 ~~SERVICE PLANS:~~

26 -

27 ~~1. A person who acts in good faith reliance upon a caregiver's~~
28 ~~authorization affidavit to provide medical or dental care, without~~
29 ~~actual knowledge of facts contrary to those stated on the~~
30 ~~affidavit, is not subject to criminal liability or to civil liability to~~
31 ~~any person, and is not subject to professional disciplinary action,~~
32 ~~for that reliance if the applicable portions of the form are~~
33 ~~completed.~~

34 -

35 ~~2. This affidavit does not confer dependency for health care~~
36 ~~coverage purposes.~~

37 ~~SEC. 4. If the Commission on State Mandates determines~~
38 ~~that this act contains costs mandated by the state, reimbursement~~
39 ~~to local agencies and school districts for those costs shall be~~

- 1 ~~made pursuant to Part 7 (commencing with Section 17500) of~~
- 2 ~~Division 4 of Title 2 of the Government Code.~~

O